

(42)

Entered - 03/29/00 - sb  
CL00L0187 - DIANNE C. MITCHELL

00-*R*-0776

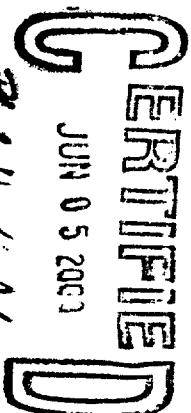
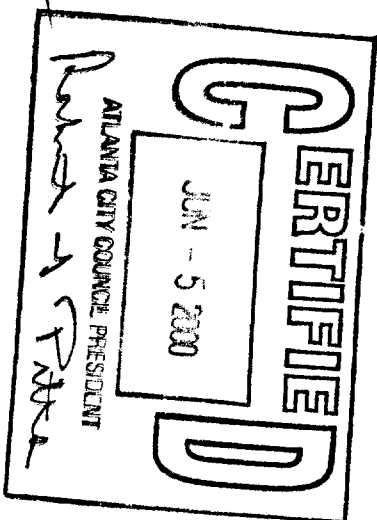
CLAIM OF: ANN WATERS,  
through her attorney,  
Ann A. Shuler  
Suite 101  
210 Washington Street, NW  
Atlanta, Georgia 30501

For damages alleged to have been sustained as a  
result of a vehicular accident on September 26,  
1999 at Interstate 75 southbound between Central  
and Cleveland Avenues, SE.

THIS ADVERSED REPORT IS  
APPROVED

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

A  
COM. *Public Safety*  
DATE *5/30/2000*  
CHM. *C. J. McArthur*  
*Michael A. [illegible]*  
*[illegible]*  
*[illegible]*



*Rosa A. [illegible]*  
MUNICIPAL CLERK

ADVERSED BY  
CITY COUNCIL JUN 05 2000



**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103**

June 15, 2000

Ann A. Shuler  
Attorney at Law  
210 Washington Street, NW  
Suite 101  
Atlanta, GA 30501

**00-R-0776**

**RE: Ann Waters**

Dear Attorney Shuler:

I sincerely regret that your clients have been adversely affected by the circumstances raised in their claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on June 05, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0187

Date: May 19, 2000

Claimant /Victim ANN WATERS  
BY: (Atty) Ann A. Shuler  
Address: Suite 101, 210 Washington Street, NW, Gainesville, Georgia 30501  
Subrogation: Claim for Property damage \$ Bodily Injury \$ not stated  
Date of Notice: 03/23/00 Method: Written, proper X Improper       
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 09/26/99 Place: Interstate 75 southbound between Central and Cleveland Avenues, SE  
Department Public Works Division: Transportation Services  
Employee involved      Disciplinary Action:     

NATURE OF CLAIM: The claimant alleges her husband, Johnny Elmer Waters, was killed in a vehicular accident with another vehicle traveling northbound on southbound Interstate 75. The claimant further alleges that the accident occurred due to negligent design and maintenance of the entrance/exit ramps onto Interstate 75. The investigation determined that the City of Atlanta is not responsible for the design and maintenance of the Interstate Highway System, including the on-ramp and off-ramp system and that these systems are the responsibility of the Georgia Department of Transportation.

INVESTIGATION:

Statements: City employee      Claimant      Others      Written      Oral       
Pictures      Diagrams      Reports: Police X Dept Report      Other       
Traffic citations issued: City Driver      Claimant Driver       
Citation disposition: City Driver      Claimant Driver     

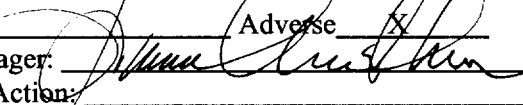
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial       
Improper Notice      More than Six Months      Other      Damages reasonable       
City not involved X Offer rejected      Compromise settlement       
Repair/replacement by Ins. Co.      Repair/replacement by City Forces       
Claimant Negligent      City Negligent      Joint      Claim Abandoned     

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$      Adverse X Account charged: 1A01      2J01      2H01       
Claims Manager:  Concur/date 05-19-00  
Committee Action:      Council Action

LAW OFFICES  
**STEPHENS AND SHULER**  
SUITE 101  
210 WASHINGTON STREET, N.W.  
GAINESVILLE, GEORGIA 30501  
770-536-7819

CHARLES W. STEPHENS  
ANN A. SHULER

TELECOPIER NO. 770-536-7175

March 22, 2000

ENTERED - 3-29-00 - SB  
00L0187 - DIANNE MITCHELL

*M. F. Hall*  
*03/24/00*  
*Du*  
TRIAL PRACTICE  
PERSONAL INJURY &  
WRONGFUL DEATH

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED AND**  
**UPS - OVERNIGHT DELIVERY - RECEIPT REQUESTED**  
**AND VIA FACSIMILE TO 404-658-7361 AND 404-658-6894**

Mayor Bill Campbell  
City of Atlanta  
55 Trinity Ave.  
Suite 2400  
Atlanta, Georgia 30335

Susan Pease Langford, City Attorney  
City of Atlanta Law Department  
68 Mitchell St.  
Suite 4100  
Atlanta, Georgia 30335-0332

Re: Statutory Notice Pursuant to O.C.G.A. § 36-33-5

Dear Mr. Campbell and Ms. Langford :

I represent Ann Waters in claims relating to the wrongful death of her husband, Johnny Elmer Waters. Pursuant to O.C.G.A. § 36-33-5 you are hereby presented for adjustment the following claim against the City of Atlanta:

(A) **Time of the occurrence:** September 26, 1999 at approximately 5:00 a.m.

(B) **Place of occurrence:** Interstate highway 75 southbound near exit 82 and just north of the entrance and exit ramps located on or near Aviation Boulevard, Fulton County, Atlanta, Georgia.

(C) **Extent of Injury:** Johnny Elmer Waters was killed when the vehicle he was driving was struck head on by Sebastien Aubin R. Salmon who was traveling northbound in the southbound lane of Interstate 75.

Mayor Bill Campbell  
Susan Pease Langford, City Attorney  
March 22, 2000  
Page two

**(D) Negligence which caused the injury:** Negligent design and maintenance, and implied and tacit approval of negligently designed and defective side by side entrance/exit ramp system at the above designated location and other similar locations in the City of Atlanta after having notice that such side by side entrance/exit ramps and systems constituted a dangerous condition which exposed the general public to harm. Failure to warn the general public of the said described condition and failure to take steps to correct the same. Failure to properly monitor the above location and other similar locations for problems involving wrong way drivers.

Failure to protect the general public by implementing a system or safeguard which would prevent or deter vehicles from entering an exit ramp for the high occupancy vehicle (HOV) lane when the same is located adjacent to an entrance ramp to a major highway, and failure to implement a warning system which would alert authorities when an HOV exit ramp or lane has been improperly entered from the wrong direction.

Yours truly,



Ann A. Shuler  
Attorney for Ann Waters

AAS/vjl

cc: Ann Waters  
encl: Wreck report involving death of Johnny Elmer Waters

00- R -0776

RCS# 1981  
6/05/00  
2:45 PM

Atlanta City Council

Regular Session

\*\*\*\*\*

CONSENT AGENDA PAGES (1 - 10)

ADOPT

YEAS: 14  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 1

SEE ATTACHED LISTING OF  
ITEMS ADOPTED/ADVERSED  
ON CONSENT AGENDA

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Wooldard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
B Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM  
CONSENT AGENDA  
00-O-0662

\*\*\*\*\*

<b>06/05/00 Council Meeting</b>	
<b>ITEMS ADOPTED ON CONSENT AGENDA</b>	<b>ITEMS ADVERSED ON CONSENT AGENDA</b>
1. 00-O-0590 2. 00-O-0677 3. 00-O-0712 4. 00-O-0752 5. 00-O-0592 6. 00-O-0593 7. 00-O-0594 8. 00-O-0625 9. 00-O-0666 10. 00-O-0673 11. 00-O-0722 12. 00-O-0724 13. 00-O-0725 14. 00-O-0730 15. 00-O-0589 16. 00-O-0713 17. 00-O-0714 18. 00-O-0715 19. 00-O-0716 20. 00-R-0753 21. 00-R-0794 22. 00-R-0761 23. 00-R-0719 24. 00-R-0763 25. 00-R-0764 26. 00-R-0762 27. 00-R-0765 28. 00-R-0766 29. 00-R-0768 30. 00-R-0769 31. 00-R-0770 32. 00-R-0771 33. 00-R-0772 34. 00-R-0773 35. 00-R-0774 36. 00-R-0783 37. 00-R-0784 38. 00-R-0785	39. 00-R-0775 40. 00-R-0776 41. 00-R-0777 42. 00-R-0778 43. 00-R-0779 44. 00-R-0780 45. 00-R-0781 46. 00-R-0782 47. 00-R-0786 48. 00-R-0787 49. 00-R-0788 50. 00-R-0789 51. 00-R-0790 52. 00-R-0791 53. 00-R-0792 54. 00-R-0793